



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 26, 2023
MOAHR Docket No.: 23-002040
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 16, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Sarah Stellema.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a FAP recipient receiving \$279 per month.
2. On February 7, 2023, the Department received information about Petitioner's employment with AARP.
3. On March 30, 2023, Notice of Case Action was sent to Petitioner informing her that her FAP benefits would be reduced to \$45 per month effective May 1, 2023.
4. Following the prehearing conference, Petitioner FAP benefits were increased to \$77 for May 2023 and \$90 for June 2023 and ongoing.
5. On April 4, 2023, Petitioner requested hearing disputing the reduction of FAP benefits.

6. Petitioner receives \$[REDACTED] per month in unearned income from the Social Security Administration but that is subject to a \$30 per month offset so she is receiving \$[REDACTED] per month.
7. Petitioner earns \$[REDACTED] every two weeks and \$[REDACTED] per month in employment income from AARP. (Ex. 1, p.16)
8. Petitioner has housing expense of \$845 per month and she is responsible for utilities.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Standard Monthly Amount

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505

In this case, Petitioner requested hearing disputing the reduction of her FAP benefits questioning the accuracy of her employment income and the calculation of her benefit amount. Petitioner provided a pay stub showing she earns \$[REDACTED] per hour and works

30 hours in a two-week period and earns \$[REDACTED] for a two-week period. Pursuant to Department policy for prospecting income multiplying \$[REDACTED] by 2.15 results with \$[REDACTED] monthly gross employment income. The Department budgeted \$[REDACTED] for Petitioner's employment income which appears to include \$[REDACTED] in employment income from Petitioner's previous budget. No other income besides Petitioner's employment income with AARP was discussed at hearing.

Petitioner also receives \$[REDACTED] per month in social security income. Petitioner pays \$845 in housing expense plus she has standardized utility expense of \$624. Petitioner has \$[REDACTED] in total gross income. After subtracting the earned income deduction of \$130 and the standard deduction of \$193, Petitioner has \$[REDACTED] in adjusted gross income. Petitioner has housing expense of \$845 per month and utility expense of \$624 for total shelter amount of \$1469. 50% of Petitioner's Adjusted Gross Income is \$629. Petitioner's total shelter amount of \$1469 minus \$629 results with \$840. Petitioner receives excess shelter deduction of \$840. Petitioner has \$418 in net income. A household of 1 with \$418 in net income is entitled to \$155 per month in food assistance.
RFT 260

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount. Petitioner is entitled to \$155 per month in FAP beginning May 1, 2023.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Correct Petitioner's FAP benefit amount to \$155 per month effective May 1, 2023.
2. Issue Petitioner a supplement up to the correct benefit amount if necessary.

AM/nr



Aaron McClintic
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
Kimberly Kornoelje
Kent County DHHS
121 Franklin SE
Grand Rapids, MI 49507
**MDHHS-Kent-
Hearings@michigan.gov**

Interested Parties
Kent County DHHS
BSC3
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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[REDACTED], MI [REDACTED]